

AMENDED IN SENATE APRIL 17, 2006

**SENATE BILL**

**No. 1826**

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**Introduced by Senator Migden**

February 24, 2006

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An act ~~relating to natural resources to add Chapter 6.15~~  
(commencing with Section 25406) to Division 20 of the Health and  
Safety Code, relating to toxic substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1826, as amended, Migden. ~~Natural resources: contract amendment.~~ Hazardous substances: persistent, bioaccumulative toxicants.

*Existing law regulates hazardous substances and hazardous waste.*

*This bill would define terms and require the Office of Environmental Health Hazard Assessment, on or before October 1, 2007, utilizing existing resources, to cause to be published a list of those substances known as persistent, bioaccumulative toxicants, as specified. The bill would require the office to cause the list to be revised and republished at least annually thereafter. The bill would require the office, on or before January 1, 2008, to adopt a persistent, bioaccumulative toxicant report form, and would require the form to include specified information.*

*The bill would require, on and after March 1, 2008, a person in the course of doing business, to submit to the office electronically the form for a substance listed as a persistent, bioaccumulative toxicant. The bill would provide that the reporting requirement does not apply to a threshold level of a persistent, bioaccumulative toxicant that the office determines is de minimus for the purposes of reporting. The bill would provide that a person who violates, or threatens to violate, the*

*reporting requirement may be enjoined by a court of competent jurisdiction, and is liable for a civil penalty not to exceed \$5,000 per day for each violation. The bill would authorize the Attorney General, a district attorney, a city attorney of a city having a population in excess of 1,000,000, or, with the consent of the district attorney, a city prosecutor in a city or city and county having a full-time city prosecutor, to bring the action, and would require a court to consider specified factors in assessing the amount of the civil penalty.*

~~Existing law appropriated money for the acquisition of specified lands that were the subject of an agreement dated September 28, 1996, between the United States, the state, MAXXAM, Inc., and the Pacific Lumber Company. Existing law prohibits those funds from being encumbered, unless specified conditions are met.~~

~~This bill would require the Resources Agency to consult with the Legislature, prior to entering into an agreement to amend an unspecified contract for the enforcement of the law described above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. The Resources Agency shall consult with the~~  
2     ~~Legislature prior to entering into an agreement to amend the~~  
3     ~~contract between \_\_\_\_\_, and dated \_\_\_\_\_, for the enforcement of~~  
4     ~~Chapter 615 of the Statutes of 1998.~~

5     ~~SECTION 1. Chapter 6.15 (commencing with Section 25406)~~  
6     ~~is added to Division 20 of the Health and Safety Code, to read:~~

7  
8             ~~CHAPTER 6.15. BIOACCUMULATIVE TOXICANTS~~  
9

10    ~~25406. The Legislature finds and declares all of the~~  
11    ~~following:~~

12    ~~(a) Bioaccumulative chemicals are toxic and long-lasting~~  
13    ~~substances that can build up in the food chain to levels that can~~  
14    ~~be harmful to human and ecological health. These contaminants~~  
15    ~~can be transported long distances in the atmosphere and can~~  
16    ~~move readily from land to air and water. Because of their~~  
17    ~~persistence and bioaccumulative properties, these substances do~~  
18    ~~not break down easily. Many of these substances are~~

1 *human-made and have only been in existence for a relatively*  
2 *short period of human history.*

3 *(b) Many persistent, bioaccumulative toxicants are associated*  
4 *with a range of adverse human health effects, including effects on*  
5 *the nervous system, reproductive and developmental problems,*  
6 *cancer, and genetic impacts. Particular hazards may be posed to*  
7 *a developing fetus or to young children, in whom critical organs,*  
8 *including the central nervous system, are still under*  
9 *development. Also, certain individuals who consume, for*  
10 *economic or cultural reasons, large amounts of fish from local*  
11 *waters contaminated with persistent, bioaccumulative toxicants*  
12 *may be at a higher risk for adverse effects.*

13 *(c) In order to protect public health and the environment, as*  
14 *well as to promote cleaner technologies and prevent pollution,*  
15 *the Legislature believes that it is the public's right to know about*  
16 *the release of persistent, bioaccumulative toxicants into their*  
17 *homes, communities, and environment.*

18 *(d) For all of these reasons, it is essential that the state receive*  
19 *information regarding the use or release of persistent,*  
20 *bioaccumulative toxicants.*

21 *25406.1. For the purposes of this chapter, the following terms*  
22 *have the following meanings:*

23 *(a) "Office" means the Office of Environmental Health*  
24 *Hazard Assessment.*

25 *(b) "Person in the course of doing business" does not include*  
26 *any of the following:*

27 *(1) A person employing fewer than 10 employees in his or her*  
28 *business.*

29 *(2) A city, county, or district, or a department or agency of a*  
30 *city, county, or district.*

31 *(3) The state or a department or agency of the state.*

32 *(4) The federal government or a department or agency of the*  
33 *federal government.*

34 *25406.2. On or before October 1, 2007, the office, utilizing*  
35 *existing resources, shall cause to be published a list of those*  
36 *substances known as persistent, bioaccumulative toxicants. The*  
37 *office shall cause the list to be revised and republished in light of*  
38 *additional knowledge at least once per year thereafter. The list*  
39 *shall include at a minimum those substances identified by the*  
40 *federal Centers for Disease Control and Prevention for the*

1 studies known collectively as the National Report on Human  
2 Exposures to Environmental Chemicals.

3 25406.3. (a) On and after March 1, 2008, a person in the  
4 course of doing business shall submit to the office an electronic  
5 form completed pursuant to subdivision (b) for a substance listed  
6 as a persistent, bioaccumulative toxicant pursuant to Section  
7 25406.2.

8 (b) On or before January 1, 2008, the office shall adopt a  
9 persistent, bioaccumulative toxicant reporting form that shall be  
10 submitted pursuant to subdivision (a) by a person in the course of  
11 doing business. The form adopted by the office pursuant to this  
12 section shall include all of the following:

13 (1) The name, location, and principal business activities, of  
14 the business.

15 (2) An appropriate certification, signed by a senior official  
16 with management responsibility for the person completing the  
17 report, regarding the accuracy of the information provided in the  
18 form.

19 (3) The submission of all of the following items of information  
20 regarding the use of each listed persistent, bioaccumulative  
21 toxicant that is handled, present in a process or product, or  
22 otherwise released into the environment:

23 (A) A description of whether the listed persistent,  
24 bioaccumulative toxicant is manufactured, processed, or  
25 otherwise used.

26 (B) An estimate of the annual quantity of a listed persistent,  
27 bioaccumulative toxicant used.

28 (c) The form shall allow, to the greatest extent feasible,  
29 reporting based on readily available data, or, if that data is not  
30 readily available, reasonable estimates of the amounts of listed  
31 persistent, bioaccumulative toxicants.

32 (d) The office shall require that the data in the form be  
33 expressed in common units to assure consistency.

34 (e) The office may establish a threshold quantity for reporting  
35 a listed persistent, bioaccumulative toxicant.

36 25406.4. (a) A person who violates or threatens to violate  
37 Section 25406.3 may be enjoined in a court of competent  
38 jurisdiction.

39 (b) (1) A person who violates Section 25406.3 is liable for a  
40 civil penalty not to exceed five thousand dollars (\$5,000) per day

1 *for each violation in addition to any other penalty established by*  
2 *law. That civil penalty may be assessed and recovered in a civil*  
3 *action brought in a court of competent jurisdiction.*

4 *(2) In assessing the amount of a civil penalty for a violation of*  
5 *Section 25406.3, the court shall consider all of the following:*

6 *(A) The nature and extent of the violation.*

7 *(B) The number and severity of the violations.*

8 *(C) The economic effect of the penalty on the violator.*

9 *(D) Whether the violator took good faith measures to comply*  
10 *with this chapter and the time these measures were taken.*

11 *(E) The willfulness of the violator's misconduct.*

12 *(F) The deterrent effect that the imposition of the penalty*  
13 *would have on both the violator and the regulated community as*  
14 *a whole.*

15 *(G) Any other factor that justice may require.*

16 *(c) An action pursuant to this section may be brought by the*  
17 *Attorney General in the name of the people of the State of*  
18 *California, by a district attorney, by a city attorney of a city*  
19 *having a population in excess of 1,000,000, or, with the consent*  
20 *of the district attorney, by a city prosecutor in a city or city and*  
21 *county having a full-time city prosecutor.*

22 *25406.5. Section 25406.3 does not apply to a threshold level*  
23 *of a persistent, bioaccumulative toxicant that the office*  
24 *determines is de minimus for the purposes of reporting.*